

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

Mark B. Kabins, M.D.

License No. 24883

For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-09-0373A

**ORDER FOR LETTER OF REPRIMAND
AND PROBATION AND CONSENT TO
THE SAME CONSENT**

Mark B. Kabins, M.D. ("Respondent") elects to permanently waive any right to a hearing and appeal with respect to this Order for Letter of Reprimand and Probation; admits the jurisdiction of the Arizona Medical Board ("Board"); and consents to the entry of this Order by the Board.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 24883 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-09-0373A after receiving notice that in March 2009, Respondent was indicted on eight counts that included conspiracy, mail fraud/honest services fraud, and aiding and abetting.

4. In March 2009, the United States District Court, the District of Nevada indicted Respondent on eight counts and he was charged with violations of Title 18 U.S.C. sections 1571, 1341 and 1346 stemming from his care and treatment of patient MS. The indictment alleged Respondent and other physicians aided and abetted each other, devised and intended to devise, and participated in the material screening to artifice to defraud and obtain money and property from patient MS through false and fraudulent pretenses. It was further alleged in August 2000, MS became paralyzed following complications arising out of routine spine surgery. Thereafter, MS hired an attorney to

1 represent her in pursuit of the medical claims from any medical providers responsible for
2 her injuries. It was further alleged that Respondent altered MS's medical records.
3 Additionally, it was alleged that Respondent referred lucrative personal injury cases to the
4 attorney to influence him in not suing and to compensate the attorney for not doing so.

5 5. On December 30, 2009, Respondent plead guilty to a misprision of a felony,
6 he admitted to knowing about the commission of mail or wire fraud by others and
7 concealed material information about the crime. Respondent further admitted that he did
8 not as soon as possible make known the mail or wire fraud to a judge or other person in
9 civil or military authority.

10 6. On January 14, 2010, Respondent's plea agreement was accepted by the
11 United States District Court, District of Nevada. Respondent was sentenced to five years
12 probation, including a condition of six months home detention in lieu of imprisonment.
13 Respondent was required to perform 250 hours of community service, pay restitution to
14 MS in the amount of \$3,500,000, and pay a special assessment of \$100 for the count of
15 conviction. As a result of the court entering the plea, the indictment of March 4, 2009 and
16 the allegations contained therein were dismissed with prejudice.

17 CONCLUSIONS OF LAW

18 1. The Board possesses jurisdiction over the subject matter hereof and over
19 Respondent.

20 2. The conduct and circumstances described above constitute unprofessional
21 conduct pursuant to A.R.S. §32-1401(27)(d) ("[c]ommitting a felony, whether or not
22 involving moral turpitude, or a misdemeanor involving moral turpitude. In either case,
23 conviction by any court of competent jurisdiction or a plea of no contest is conclusive
24 evidence of the commission.").

25 3.

1 ORDER

2 IT IS HEREBY ORDERED THAT:

3 1. Respondent is issued a Letter of Reprimand.

4 2. Respondent is placed on probation for one year with the following terms and
5 conditions:

6 Continuing Medical Education

7 Respondent shall within six months of the effective date of this Order obtain
8 15-20 hours of Board Staff pre-approved Category I Continuing Medical Education (CME)
9 in an intensive ethics course. Respondent shall within **thirty days** of the effective date of
10 this Order submit his request for CME to the Board for pre-approval. Upon completion of
11 the CME, Respondent shall provide Board Staff with satisfactory proof of attendance. The
12 CME hours shall be in addition to the hours required for the biennial renewal of medical
13 license. The probation shall terminate upon successful completion of the CME.

14 b. Obey All Laws

15 Respondent shall obey all state, federal and local laws, all rules governing
16 the practice of medicine in Arizona, and remain in full compliance with any court ordered
17 criminal probation, payments and other orders.

18 c. Tolling

19 In the event Respondent should leave Arizona to reside or practice outside
20 the State or for any reason should Respondent stop practicing medicine in Arizona,
21 Respondent shall notify the Executive Director in writing within ten days of departure and
22 return or the dates of non-practice within Arizona. Non-practice is defined as any period of
23 time exceeding thirty days during which Respondent is not engaging in the practice of
24 medicine. Periods of temporary or permanent residence or practice outside Arizona or of
25 non-practice within Arizona, will not apply to the reduction of the probationary period.

1 DATED AND EFFECTIVE this 10th day of June, 2010.

2 ARIZONA MEDICAL BOARD

3 (SEAL)

4 By

5 Lisa S. Wynn
6 Executive Director

7 **CONSENT TO ENTRY OF ORDER**

8 1. Respondent has read and understands this Consent Agreement and the
9 stipulated Findings of Fact, Conclusions of Law and Order ("Order"). Respondent
10 acknowledges he has the right to consult with legal counsel regarding this matter.

11 2. Respondent acknowledges and agrees that this Order is entered into freely
12 and voluntarily and that no promise was made or coercion used to induce such entry.

13 3. By consenting to this Order, Respondent voluntarily relinquishes any rights to
14 a hearing or judicial review in state or federal court on the matters alleged, or to challenge
15 this Order in its entirety as issued by the Board, and waives any other cause of action
16 related thereto or arising from said Order.

17 4. The Order is not effective until approved by the Board and signed by its
18 Executive Director.

19 5. All admissions made by Respondent are solely for final disposition of this
20 matter and any subsequent related administrative proceedings or civil litigation involving
21 the Board and Respondent. Therefore, said admissions by Respondent are not intended
22 or made for any other use, such as in the context of another state or federal government
23 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
24 any other state or federal court.
25

1 6. Upon signing this agreement, and returning this document (or a copy thereof)
2 to the Board's Executive Director, Respondent may not revoke the consent to the entry of
3 the Order. Respondent may not make any modifications to the document. Any
4 modifications to this original document are ineffective and void unless mutually approved
5 by the parties.

6 7. This Order is a public record that will be publicly disseminated as a formal
7 disciplinary action of the Board and will be reported to the National Practitioner's Data
8 Bank and on the Board's web site as a disciplinary action.

9 8. If any part of the Order is later declared void or otherwise unenforceable, the
10 remainder of the Order in its entirety shall remain in force and effect.

11 9. If the Board does not adopt this Order, Respondent will not assert as a
12 defense that the Board's consideration of the Order constitutes bias, prejudice,
13 prejudgment or other similar defense.

14 10. Any violation of this Order constitutes unprofessional conduct and may result
15 in disciplinary action. A.R.S. § 32-1401(27)(r) ("violating a formal order, probation,
16 consent agreement or stipulation issued or entered into by the board or its executive
17 director under this chapter") and 32-1451.

18 11. Respondent acknowledges that, pursuant to A.R.S. § 32-2533(E), he cannot
19 act as a supervising physician for a physician assistant while his license is under
20 probation.

21 12. ***Respondent has read and understands the conditions of probation.***

22 *Mark B. Kabins*

23 DATED: 3/30/2010

24 Mark B. Kabins, M.D.

25 EXECUTED COPY of the foregoing mailed
this 10th day of June, 2010 to:

1 Mark B. Kablins, M.D.
2 Address of Record

3 ORIGINAL of the foregoing filed
4 this 14th day of June, 2010 with:

5 Arizona Medical Board
6 9545 E. Doubletree Ranch Road
7 Scottsdale, AZ 85258

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9 Arizona Medical Board Staff